

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, CHANDIGARH**

**PHYSICAL HEARING**

**BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT  
AND  
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

1. आयकर अपील सं. / ITA No.54/CHANDI/2025  
(निर्धारण वर्ष / Assessment Year: 2010-11)  
&
2. आयकर अपील सं. / ITA No.55/CHANDI/2025  
(निर्धारण वर्ष / Assessment Year: 2011-12)  
&
3. आयकर अपील सं./ ITA No.56/CHANDI/2025  
(निर्धारण वर्ष / Assessment Year: 2012-13)  
&
4. आयकर अपील सं. / ITA No.74/CHANDI/2025  
(निर्धारण वर्ष / Assessment Year: 2015-16)  
&
5. आयकर अपील सं. / ITA No.57/CHANDI/2025  
(निर्धारण वर्ष / Assessment Year: 2016-17)  
&
6. आयकर अपील सं. / ITA No.58/CHANDI/2025  
(निर्धारण वर्ष / Assessment Year: 2017-18)

M/s Hi Tech Foods NH-22, Sector-6, Upmohal Parwanoo, Sector-VI, Solan (HP) -173220	<b>बनाम/ Vs.</b>	ITO Ward-1 Aaykar Bhawan-1 Shimla (HP)
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AACFH-7996-J</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Sh. Parikshit Aggarwal (CA) & Smt. Shruti Khandelwal (Advocate) – Ld. ARs
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Sh. Vivek Vardhan (Addl. CIT) - Ld. Sr DR

<b>Date of Final Hearing</b>	:	19-02-2026
<b>Date of Pronouncement</b>	:	25-02-2026

## **आदेश / O R D E R**

### **Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeals by assessee for captioned Assessment Years have identical facts and issues. First, we take up appeal for AY 2010-11 which arises out of an order by Ld. learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 25-08-2025 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s 143(3) of the Act on 27-11-2019. The grounds of appeal read as under: -

1. That on the facts, circumstances and legal position of the case, the Worthy CIT(A) in Appeal No. CIT A SHIMLA/10368/2017-18 has erred in passing order dtd. 10.12.2024 in contravention of provisions of S. 250 of the Income Tax Act, 1961 (hereinafter referred to as "Act").
2. That on the facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the actions of Ld. AO in initiating, continuing and then concluding the impugned assessment u/s 148 even when all those actions were illegal.
3. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the addition made by the Ld. AO of Rs.48,86,851/- u/s 69C by holding the purchases as bogus / fictitious.
4. That on facts, circumstances and legal position of the case, the order passed by Ld. AO and then by Worthy CIT(A) deserves to be quashed since the same has been passed without affording reasonable opportunity of being heard to the appellant.
5. That the appellant craves leave for any addition, deletion, or amendment in the grounds of appeal on or before the disposal of the same.

2. As is evident, the assessee has assailed the jurisdiction of Ld. AO on legal grounds and also contests quantum addition on merits. The sole grievance of the assessee is confirmation of quantum addition of Rs.48,86,851/- u/s 69C on account of alleged bogus / fictitious purchases. The Ld. AO advanced arguments on merits as well as on legal grounds and referred to various judicial decisions. The copies of

the same have been placed on record. The Ld. Sr. DR also advanced arguments and supported the orders of lower authorities. Having heard rival submissions and upon perusal of the case record our adjudication would be as under.

### **Assessment Proceedings**

3.1 The Assessee being resident firm is stated to be running a roller flour mill. The assessee filed return of income on 20-09-2010 declaring income of Rs.2,87,100/-. However, the case was reopened on the allegation that the assessee transferred an amount of Rs.52,86,651/- to *M/s Kamna Overseas* of Karnal but that entity did not make any sale or purchases from the assessee. It was also alleged that the Assessee received bogus bills and made payment through RTGS and payment was received back in cash. Accordingly, forming belief of escapement of income, a notice u/s 148 was issued by Ld. AO on 31-03-2017 with the prior approval from Ld. Pr. CIT, Shimla.

3.2 In response to the notice u/s 148, the assessee offered original return of income. The copy of reasons was provided to the assessee. The assessee objected to reopening on the ground that it made purchases from *M/s Kamna Overseas* against 34 Bills issues by that entity between 10-09-2010 and 23-11-2010. All such purchases were duly supported by the bills, transport GRs and statutory Form 26A duly filled and stamped by the Parwanoo Barrier evidencing crossing of *Parwanoo* barrier by delivery vehicles carrying the goods to reach the destination of the Assessee. There were thus sufficient evidences to

prove that bills were genuine and the assessee actually received the delivery of goods. The payment to the said suppliers was through banking channels only. All these documents were duly submitted to Ld.AO. The assessee also filed copy of account as well a confirmation certificate from *M/s Kamna Overseas*. The assessee thus contended that the reasons recorded by the department were not sufficient to reopen the case of the assessee.

3.3 After rejecting aforesaid arguments, Ld. AO continued to make the allegations of bogus purchases against the assessee by referring to the statement of Shri Rajesh Mittal (Proprietor of *M/s Kamna Overseas*) and Shri Sanjiv Mittal who used to manage that entity. The copies of these statements were provided to the assessee.

3.3 To support the allegations, Ld. AO pointed out minor discrepancies in four invoices which are enumerated at Para-6 of the assessment order. To verify the authenticity of the bills, summons u/s 131 were issued to the related persons of that entity. However, none attended and the assessee failed to produce the supplier before Ld. AO although the assessee filed an affidavit from Sh. Rajesh Mittal on 12-12-2017 confirming the transactions with the Assessee.

3.4 The Ld. AO also issued notices u/s 133(6) to three Transport Carriers. Two were found to be non-existent and the third transporter stated that the GRs were bogus. Discrepancies were also noted in one vehicle number and accordingly, the assessee was show-caused. The Assessee, by way of detailed written submissions, clarified its position and refuted all the allegations of Ld. AO. Reference was

made to the affidavit of Shri Rajesh Kumar confirming the transactions with the assessee. The assessee also stated that it never visited the seller at the time of placing the order or at the time of loading of vehicles. The orders were exchanged telephonically and the material was dispatched by the supplier who was in contact with the transporters. The assessee received the goods and made the payment to truck drivers in cash and to the supplier through banking channels. However, Ld. AO rejected the claim of the assessee and disallowed the entire purchases of Rs.48,86,851/-. Aggrieved, the assessee preferred first appeal against the same.

### **Appellate Proceedings**

4.1 The assessee, by way of elaborate written submissions, assailed the stand taken by Ld. AO on legal grounds as well as on merits. The assessee's submissions and additional evidences were subjected to remand proceedings wherein Ld. AO reiterated the stand taken in the assessment order. The assessee objected to the remand report and controverted the observations of Ld. AO.

4.2 The Ld. CIT(A) rejected the legal ground by observing that the reopening was on the basis of information received from DDIT (Inv.). The Ld. AO received credible and cogent information that the assessee received accommodation entry by way of bogus bills. The reopening was done after due approval and therefore, reopening was held to be valid one. The assessee had furnished transport details, VAT forms, ledger extracts, quantitative details of stock, sales tax order in support of impugned purchases. However, Ld.CIT(A)

endorsed the findings of Ld. AO and confirmed the addition. Aggrieved, the assessee is in further appeal before us.

### **Our findings and Adjudication**

5. From the facts, it emerges that the assessee-firm is engaged in running a roller flour mill and is manufacturing *Atta, Maida, Suji and Bran* for which the basic raw material is wheat. The assessee is stated to have purchased wheat from *M/s Kamna Overseas* during the year. The material has been transported through various transporters. It also emerges that the transportation has been arranged by the supplier only. The assessee has made the payment to the truck drivers. In support of the transportation of goods, the assessee has duly furnished details of transporters including copies of GRs etc. In such a case, the assessee would have no control over the transporters. Any irregularity or deficiencies in the transporters' documentations, therefore, could not be attributed to the assessee nor could it negate the fact of actual delivery considering the various documentary evidences as furnished by the assessee to substantiate the delivery of goods which includes statutory VAT form as issued by Excise & Taxation Department. The field enquiries from transporters have happened at significantly later point of time and it was quite possible that the transporters changed their addresses or left the business. Therefore, merely on this basis, the claim of the assessee could not be rejected.

6. It could also be observed that all the purchases as made from *M/s Kamna Overseas* are duly supported by VAT invoices as well as

statutory VAT form evidencing movement of goods. The statutory Form 26A is issued by the Excise & Taxation Department and is stamped by VAT / Sales Tax Department at the time of movement of goods from other state to the state of Himachal Pardesh. Without this document, the transport vehicles could not enter the state of Himachal Pardesh. The assessee duly furnished the same which would go on to prove that the goods were actually delivered to the assessee. In fact, an assessment was framed against the assessee under Rule 66 of HP VAT Act, 2005 which was concluded without any adverse remark. Therefore, the sale, purchase and stock of the assessee is to be accepted.

7. It could further be seen that the assessee has duly maintained regular books of accounts. The financial statements are subjected to Tax Audit which carries the quantitative details of stock. The Ld. AO has not doubted the quantitative details. It is quit logical that no manufacturing could take place without purchase of basic raw material. Acceptance of production results implies acceptance of purchases. The payment to the said supplier is through banking channels only. The transactions have been confirmed by the supplier for which an affidavit was filed by the assessee before lower authorities. In the affidavit, it has clearly been stated that the orders were received telephonically and the goods were supplied to the assessee. The Ld. AO has not brought on record any cogent evidence of cash withdrawal or cash trail indicating return of funds to the assessee and the allegation remains unsupported. When the

payments are routed through banking channels and no irregularity is shown, genuineness must be presumed. It is settled law that when the assessee has duly furnished all the relevant documentary evidences, the onus of the assessee is discharged and it would be the onus of Ld. AO to rebut the same with concrete material. Until that exercise is carried out, no addition could be made. It is trite law that no addition can be made merely on presumption, assumption or surmises. In fact, an assessment has been framed by Ld. AO in the case of another assessee viz. M/s A.B. Roller Flour Mills for the same AY 2010-11 on 26-12-2017 wherein the case was reopened on identical facts to examine the purchases made by that entity from *M/s Kamna Overseas*. In that order, Ld. AO has duly accepted similar documents as furnished by the assessee and chose to accept the claim of the assessee qua purchases from *M/s Kamna Overseas*. Further, Chandigarh Tribunal, in the case of **M/s Kuber Roller Flour Mills (ITA No.145/Chd/2020 dated 26-10-2022 for AY 2011-12)** dealt with similar issue wherein the purchases from M/s Kamna Overseas were under doubt. The Ld. Member held that the case of the revenue solely rests on the statement of Shri Rajesh Mittal which was recorded u/s 131(1A). This statement could be a basis to initiate investigation by Ld. AO. However, no defect or inaccuracies were found in the assessee's documentation and therefore, the addition could not be sustained. Both these orders duly support the case of the assessee.

8. Finally, considering the facts and circumstances of the case, the impugned addition as sustained by Ld. CIT(A) could not be upheld.

We delete the same. The Ld. AO is directed to re-compute the income of the assessee. Since assessee's grounds, on merits, have been allowed, the legal grounds as urged by Ld. AR has become mere academic in nature and we see no fruitful reason to deal with the same. The appeal stand partly allowed.

9. It is admitted position that the facts in the other Assessment Years are quite identical. In AYs 2011-12 & 2012-13, Ld. AO has disallowed the purchases made by the assessee from *M/s Kamna Overseas*. In AYs 2015-16 to 2017-18, Ld. AO has disallowed purchases made by the assessee from another concern (M/s Moksha Foods) of the same group. Facts being pari-materia the same as in AY 2010-11, our adjudication as above would *mutatis-mutandis* apply to all these years. These appeals stand partly allowed.

### **Conclusion**

10. All the appeals stand partly allowed.

Order pronounced on 25<sup>th</sup> February, 2026.

-Sd-  
(RAJPAL YADAV)  
VICE PRESIDENT

-Sd-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Dated:25-02-2026

**आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH